

SENATE CONCURRENT RESOLUTION NO. 11

Relating to a prohibition on the implementation of the federal REAL ID Act.

WHEREAS, in May 2005, the United States Congress enacted the REAL ID Act of 2005 as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act (PL 109-13), which was signed by President Bush on May 11, 2005, and which becomes effective May 11, 2008; and

WHEREAS, some of the requirements of the REAL ID Act are that states shall:

- (1) Issue a driver's license or state identification card in a uniform format, containing uniform information, as prescribed by the federal Department of Homeland Security;
- (2) Verify the issuance, validity, and completeness of all primary documents used to issue a driver's license, such as those showing that the bearer is a United States citizen or a lawful alien, a lawful refugee, or a person holding a valid visa;
- (3) Provide for secure storage of all primary documents that are used to issue a federally approved driver's license or state identification card;
- (4) Provide fraudulent document recognition training to all persons engaged in issuing driver's licenses or state identification cards; and
- (5) Issue a driver's license or state identification card in a prescribed format if it is a license or card that does not meet the criteria provided for a federally approved license or identification card; and

WHEREAS, use of the federal minimum standards for state driver's licenses and state-issued identification cards will be necessary for any type of federally regulated activity for which an identification card must be displayed, including flying in a commercial airplane, making transactions with a federally licensed bank, entering a federal building, or making application for federally supported public assistance benefits, including Social Security; and

WHEREAS, some of the intended privacy requirements of the REAL ID Act, such as the use of common machine-readable technology and state maintenance of a database that can be shared with the United States government and agencies of other states, may actually make it more likely that a federally required driver's license or state identification card, or the information about the bearer on which the license or card is based, will be stolen, sold, or otherwise used for purposes that were never intended or that are criminally related than if the REAL ID Act had not been enacted; and

WHEREAS, these potential breaches in privacy that could result directly from compliance with the REAL ID Act may violate the right to privacy secured in the Missouri Constitution, for thousands of residents of Missouri; and

WHEREAS, the American Association of Motor Vehicle Administrators, the National Governors' Association, and the National Conference of State Legislatures have estimated, in an impact analysis dated September 2006, that the cost to the states to implement the REAL ID Act will be more than \$11 billion over 5 years, and it is estimated that the implementation of the REAL ID Act will cost Missouri millions to fully implement the Act, none of such costs being paid for by the federal government; and

WHEREAS, for all of these reasons, the American Association of Motor Vehicle Administrators, the National Governors' Association, and the National Conference of State Legislatures, in a letter dated March 17, 2005, to the majority and minority leaders of the United States Senate, opposed the adoption of the REAL ID Act, but the opposition of those groups, and the groups' request that Congress rely on driver's license security provisions already passed by Congress in the Intelligence Reform and Terrorism Prevention Act of 2004, was largely ignored by Congress; and

WHEREAS, the regulations that are to be adopted by the U.S. Department of Homeland Security to implement the requirements of the REAL ID Act have yet to be adopted and, in reality, will probably not become effective until the Spring of 2007, effectively giving the states only one year in which to become familiar with the implementing regulations and comply with those regulations and the requirements of the REAL ID Act; and

WHEREAS, the mandate to the states, through federal legislation that provides no funding for its requirements, to issue what is, in effect, a national identification card appears to be an attempt to "commandeer" the political machinery of the states and to require the states to be agents of the federal government, in violation of the principles of federalism contained in the Tenth Amendment to the United States Constitution, as interpreted by the United States Supreme Court in *New York v. United States*, 488 U.S. 1041 (1992), *United States v. Lopez*, 514 U.S. 549 (1995), and *Printz v. United States*, 521 U.S. 898 (1997):

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly,

First Regular Session, the House of Representatives concurring therein, hereby refuse to implement the REAL ID Act and thereby protest the treatment by Congress and of the states as agents of the federal government and, by such protest, lead other state legislatures and governors to reject the treatment by the federal government of the 50 states by the enactment of the REAL ID Act; and

BE IT FURTHER RESOLVED that the Missouri General Assembly finds that the enactment into law by the United States Congress of the REAL ID Act of 2005, as part of PL 109-13, is inimical to the security and well-being of the people of Missouri, will cause unneeded expense and inconvenience to those people, and was adopted by the United States Congress in violation of the principles of federalism contained in the Tenth Amendment to the United States Constitution; and

BE IT FURTHER RESOLVED that the Missouri General Assembly prohibits the State of Missouri from participating in the implementation of the REAL ID Act of 2005. The Missouri Department of Revenue, including the Division of Motor Vehicle and Drivers Licensing, is directed not to implement the provisions of the REAL ID Act of 2005 and to report to the Governor any attempt by agencies or agents of the federal Department of Homeland Security to secure the implementation of the REAL ID Act of 2005 through the operations of such Division and Department; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Resolution

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